

RULEMAKING NOTICE

Notice Number _____	Rule Number _____	Env-A 1800
<p>1. Agency Name & Address:</p> <p style="margin-left: 40px;">Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority:</p> <p>3. Federal Authority:</p> <p>4. Type of Action:</p> <div style="margin-left: 40px;"> <p>Adoption X</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption X</p> <p>Readoption w/amendment X</p> </div>	<p style="text-align: center;">RSA 141-E:4</p> <hr/> <p style="text-align: center;">42 U.S.C. 7412(l); 15 U.S.C. 2643(m)</p> <hr/>
<p>5. Short Title: Asbestos Management and Control</p>		

6. (a) Summary of what the rule says and of any proposed amendments:

Env-A 1800, Asbestos Management and Control, implements RSA 141-E by establishing asbestos abatement standards and notification, recordkeeping, and fee requirements. It also incorporates by reference most of 40 CFR 61, Subpart M, the national emission standard for asbestos. EPA has delegated its authority to implement the federal standard to DES, pursuant to section 112 of the Clean Air Act. The rules also establish asbestos analytical requirements, training and certification course requirements, safe worker practices, administrative fines, and licensing and certification requirements for asbestos abatement, school asbestos abatement planning, and asbestos disposal site management. The rules protect the health of the general public by ensuring that asbestos is managed in a manner that minimizes the release of asbestos fibers to the environment and human exposure thereto. Most of the rules are scheduled to expire on October 21, 2016, so the Department is proposing to readopt the rules with amendments. **The existing rules will continue in effect pursuant to RSA 541-A:14-a, I, subject to the conditions specified therein.**

The proposed amendments would clarify several definitions and amend existing recordkeeping requirements. The proposed amendments also would (1) require an owner or operator of a facility in which a major abatement project is occurring to notify the Department of any change in start or completion dates or of any break in operations (Env-A 1804.01); (2) include new, less burdensome alternative requirements for facility operators performing asbestos abatement activities involving vinyl asbestos floor tile, vinyl asbestos floor sheeting, asbestos roofing materials, asbestos siding and other preformed cementitious asbestos materials (in Env-A 1806); and (3) allow an applicant for an abatement entity or ADS contractor license to voluntarily provide proof of business liability insurance or bond, which would be noted by the Department on its website (Env-A 1811.05).

6. (b) Brief description of the groups affected:

The rules apply to any person who owns or operates any building that contains regulated asbestos-containing material (RACM) and renovates or demolishes the building, and any person involved in asbestos abatement activities including analytical laboratories, consultants, and asbestos abatement contractors.

6. (c) Specific section(s) of state statute or federal statute or regulation the rule is intended to implement:

Rule Number(s)	State Statute(s) Implemented	Federal Regulations Implemented
Env-A 1801.01	RSA 141-E:1	
Env-A 1801.02	RSA 141-E:3	
Env-A 1802.01-1802.04; 1802.07-1802.11; 1802.13-1802.17; 1802.20; 1802.22-1802.31; 1802.33-1802.42; 1802.45-1802.46; 1802.48-1802.52; 1802.54-1802.55; 1802.58	RSA 141-E:4	
Env-A 1802.05	RSA 141-E:2, I	
Env-A 1802.06	RSA 141-E:2, II	

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Rule Number(s)	State Statute(s) Implemented	Federal Regulations Implemented
Env-A 1802.12	RSA 141-E:2, III	
Env-A 1802.18-1802.19	RSA 141-E:4	40 CFR 61.141
Env-A 1802.21	RSA 141-E:2, IV	
Env-A 1802.32	RSA 141-E:2, VI	
Env-A 1802.43	RSA 141-E:4	40 CFR 763, subpart E, appendix C
Env-A 1802.44	RSA 141-E:4	40 CFR 61.141
Env-A 1802.47	RSA 141-E:2, VII	
Env-A 1802.53	RSA 141-E:2, VIII	
Env-A 1802.56	RSA 141-E:4	40 CFR 763, subpart E, appendix C
Env-A 1802.57	RSA 141-E:2, IX	
Env-A 1802.59	RSA 141-E	40 CFR 61.141
Env-A 1803.01-.08	RSA 141-E:3, XI	
Env-A 1803.09	RSA 141-E:12, II	
Env-A 1804.01-.04	RSA 141-E:3, X	
Env-A 1804.03(a)	RSA 141-E:3, X	40 CFR 61.145
Env-A 1804.05-.07	RSA 141-E:8 & 13	
Env-A 1804.08	RSA 141-E:8, III	
Env-A 1804.09	RSA 141-E:12	
Env-A 1805 & 1806 & 1807	RSA 141-E:3, VIII & 9	
Env-A 1805.08	RSA 141-E:3, VIII & 9	40 CFR 61.150
Env-A 1808.01	RSA 141-E:4, II(a)(3)	42 U.S.C. 7412; 40 CFR 61, Subpart M
Env-A 1808.02	RSA 141-E	15 U.S.C. 2643(m); 40 CFR 763, Subpart E
Env-A 1809	RSA 141-E:8 & 13	
Env-A 1810	RSA 141-E:4, II & VIII	
Env-A 1810.06 intro	RSA 141-E:4, II & VIII	40 CFR 763, subpart E, Appendix C
Env-A 1811	RSA 141-E:4, II & VIII; 10-11	
Env-A 1811.08	RSA 141-E:12	
Env-A 1812	RSA 141-E:4, XV & 10	
Env-A 1812.08(c)	RSA 141-E:4, XV & 10	29 CFR 1910.120, 29 CFR 1926.1101
Env-A 1813	RSA 141-E:4, XV & 11	
Env-A 1813.08	RSA 141-E:4, XV & 11	29 CFR 1910.120, 29 CFR 1926.1101
Env-A 1814	RSA 141-E:4, XV	
Env-A 1815	RSA 141-E:4, XII	

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Karla McManus	Title:	ARD Planning and Rules Manager
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6854
		Fax#:	(603) 271-1381
		E-mail:	Karla.McManus@des.nh.gov

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-

800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 p.m. on Wednesday, November 30, 2016**

WRITTEN COMMENTS MAY BE SUBMITTED WITHOUT PARTICIPATING IN THE PUBLIC HEARING

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, November 18, 2016 at 1:00 PM**

Place: **Rooms 110-111, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 16:215 , dated 10/12/2016:

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules, the proposed rules may decrease costs to certain citizens, political subdivisions and independently owned business by indeterminable amounts as described below.

2. Cite the Federal mandate. Identify the impact on state funds:

The EPA has delegated to the Department the authority to implement the National Emission Standards for Hazardous Air Pollutant pursuant to 42 U.S.C. 7412(l); 15 U.S.C. 2463(m) 40 CFR 61, subpart M. If the rules are not adopted, the EPA could withdraw its delegation, approximately \$100,000 in federal revenue would be lost, and there would be an increase in transaction costs to the regulated community.

3. Cost and benefits of the proposed rule(s):

Proposed Env-A 1806 includes new, less burdensome alternative requirements for facility operators performing asbestos abatement activities involving vinyl asbestos floor tile, vinyl asbestos floor sheeting, asbestos roofing materials, asbestos siding and other preformed cementitious asbestos materials. State citizens, political subdivisions, and independently owned businesses engaged in or requiring asbestos disposal of these materials may realize cost savings. The amount of savings cannot be determined.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

See #3 above.

C. To independently owned businesses:

See #3 above.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

There is no increase in costs associated with the proposed rules. The proposed rules readopt existing rules with only minor changes. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution, because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state in such a way to necessitate additional local expenditures.